

Appl. No. 10/719,639  
Amdt. dated January 9, 2007  
Reply to Office Action of October 12, 2006

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### **REMARKS/ARGUMENTS**

Claims 10-18 are currently amended. Claims 10-18, 21-30, and 32-36 are presented for consideration.

By way of the Office Action mailed October 12, 2006, the Office rejected claims 10, 12-16 and 18 under 35 U.S.C. § 102 as allegedly being anticipated by Miller et al., EP 661,960 B1, ("Miller"). Further, the Office rejected claims 11, 17, 21-29, and 34-36 as being obvious to one of ordinary skill in the art, and thus unpatentable over Hwang et al., U.S. Patent Number 4,902,553 ("Hwang"); Miller; or Hwang in view of Miller. These rejections are respectfully traversed to the extent that they may apply to the presently presented claims.

### **Claim Objections**

The Examiner is thanked for the correction of the typographical error regarding the misnumbering of claims 34 and 35.

Though not objected to, claim 10 was amended to correct an error in antecedent basis. The use of "target area" was not consistent with "target region." This amendment was not made in an effort to overcome the prior art.

### **Rejection of Claims 10, 12-16 and 18 under 35 U.S.C. § 102**

Claim 10 was rejected by the Office under 35 U.S.C. § 102 as being anticipated by Miller, stating that Miller teaches a low noise fastening tape 5 for a diaper comprising a tape substrate layer 6 defining a first surface having a surface area and a target area, and a noise reducing layer 7 that coats the target region, wherein the noise-reducing layer has a basis weight of 0.78 g/24 in<sup>2</sup>, or 50 gsm. The applicants respectfully disagree with this statement.

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Miller discloses "a disposable diaper closure system in which the fastening tape makes little noise when detached from the diaper." (Page 2, lines 3-4.) Thus, the Miller invention is directed to a closure system where the noise caused by separating the fastening tape from the frontal tape portion of the diaper is suppressed. (Page 2, lines 32-33.) The noise reduction is achieved by "a *combination* of a release agent to be coated in the surface of the frontal tape and a specific adhesive for the fastening tape." (Italics added, see, page 2, lines 35-36.) The basis weight of the release agent layer is 0.1 to 1.0 g/m<sup>2</sup>. (Page 4, line 2.)

In stark contrast, the present invention is a layered backsheet or outer cover material as shown in at least FIG. 1 of the present application. The backsheet material is used to reduce the "rattling" or "rustling" sounds associated with polymeric materials; the backsheet in no way affects the amount of noise resulting from the separation of tape fasteners. (Page 2, lines 1-10, and 26-28.) In the present invention, the reduced-noise composite material 100 includes a substrate 101 and a noise reducing coating material 102. The substrate can be made of any material suitable for use in a disposable personal care device, including a polymeric substance. However, there is only "a" layer that works to reduce noise. This layer does not work in conjunction with another component (other than the substrate) to reduce noise as does the Miller invention.

Thus, not every element of the claimed invention is disclosed in the Miller reference. Miller does not disclose "a noise-reducing layer" because it is really the interaction between two materials that causes the noise reduction when the fastening tapes are separated. The cited reference makes no mention that either layer is capable of reducing the rattling noise of a backsheet. Further, the Miller invention discloses a release agent layer having a basis weight of 0.1 to 1.0 g/m<sup>2</sup>. This release agent layer, though not indicated as being solely responsible for noise reduction, is less than the required basis weight of at least about three g/m<sup>2</sup>. Though the adhesive layer has a basis weight of 50 g/m<sup>2</sup>, the adhesive, like the release layer, is not by itself "a noise-reducing layer." Finally, Miller discloses only a noise-reduced tape fastening

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system, not a backsheet. Thus, for at least these reasons, Miller does not anticipate independent claim 10 of the present invention. Likewise, for the same reasons, Miller does not anticipate claims 12-16 and 18 which depend from independent claim 10. As such, applicants respectfully request that the rejection of claims 10, 12-16 and 18 under 35 U.S.C. § 102 be withdrawn.

Furthermore, claim 10 of the present invention is not rendered obvious under Miller. For instance, the problem solved by Miller is quite different from that solved in the present invention. Miller solves the problem of making the act of fastener separation quieter, whereas the present invention solves the problem of reducing the rustling noise of a disposable absorbent product as it is being worn. For at least this reason, the present invention as claimed is not obvious under Miller.

**Rejection of Claims 11, 17, 21-29 and 32-36 under 35 U.S.C. § 103**

**Claim 11**

Claim 11 was rejected by the Office under 35 U.S.C. § 103 as being unpatentable over Miller. The Office reasoned that it would be obvious to one of ordinary skill in the art to modify the positioning of the tape such that 75% of the surface area of the first surface of tape substrate 6 is occupied by the target region.

As previously stated, a claimed invention solves a different problem from that solved by Miller. Thus, whether or not the tape fastening system in Miller has a certain amount of surface area occupied by a target region is of little consequence. Miller does not show or suggest a backsheet wherein the target region is at least about 75% of said surface area of the first surface. As such, applicants respectfully request that the rejection of amended claim 11 under 35 U.S.C. § 103 be withdrawn.

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### Claim 17

Claim 17 was rejected by the Office stating that even though Miller does not teach a nonwoven layer further attached to the substrate layer, Hwang teaches that the noise-reducing layer can comprise two or more sheets of rattle-free film, wherein one of the layers will function as a nonwoven substrate. Since the noise reducing layer 7 functions as an adhesive and the nonwoven layer taught by Hwang also functions to reduce noise, it would be obvious to one of ordinary skill in the art to adhere the non-woven rattle-free layer taught by Hwang to the substrate taught by Miller. Applicants respectfully disagree with this statement.

There is no motivation to combine Miller and Hwang. First, Miller is directed to reducing noise caused when operating a fastener tape. Miller does not address the problem of rattling or rustling of a backsheet material as does the present invention and the Hwang invention. The substrate in Miller is a tape—not a backsheet. There is no reason to place the noise-reducing layer of Hwang onto the tape substrate of Miller. If this were done, the tape would no longer operate as a fastener. Thus, even if motivation to combine the references existed, the combination would not yield a backsheet having reduced noise. As such, applicants respectfully request that the rejection of amended claim 17 under 35 U.S.C. § 103 be withdrawn.

### Claim 21

Claim 21 was rejected by the Office under 35 U.S.C. § 103 as being unpatentable over Hwang in view of Miller, stating that Hwang teaches an absorbent article comprising a bodyside liner, a garment-side outer cover, and an absorbent assembly disposed between the bodyside liner. The outer cover is comprised of a liquid-impermeable substrate layer, which is comprised of a thermoplastic polymeric material defining a first surface having a surface area and a target area defined by a portion of the substrate layer covered by a piece of rattle-free film (noise-

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reducing layer). Hwang does not teach that the noise-reducing layer coats the target region, nor does Hwang teach a basis weight for the noise-reducing layer. Miller teaches a low noise fastening tape 5 for a diaper, comprising a tape substrate layer 6 defining a first surface having a surface area and a target area, and a noise reducing layer that coats the target region. The noise-reducing layer has a basis weight of 50 g/m<sup>2</sup>. Because the substrate material taught by Miller is substantially identical to the outer cover material taught by Hwang, and because Miller teaches that the noise-reducing substance 7 is also an adhesive, it would be obvious to one of ordinary skill in the art to substitute the rattle-free film taught by Hwang for the noise-reducing adhesive taught by Miller. Applicants respectfully disagree with this statement.

As with the previous rejection, there is no motivation to combine these two references as the combination of an adhesive and an outercover simply yields a sticky outercover, not the rattle-reduced outercover of the present invention. The Miller adhesive works in conjunction with the release layer to create a low-noise fastener (low noise during separation). Even if the adhesive were solely responsible for noise reduction, at the very least, it would be improper hindsight reconstruction to combine the outercover of Hwang with the fastener adhesive of Miller. As such, applicants respectfully request that the rejection of amended claim 21 under 35 U.S.C. § 103 be withdrawn.

Claims 22-29 and 32-36

The above-noted claims are dependent upon independent claim 21. For at least the reasons stated above, it is believed that these claims are patentable, and applicants respectfully request that the rejection of claims 22-29 and 33-36 under 35 U.S.C. § 103 be withdrawn.

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**Conclusion**

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicant's undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and request allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-4043.

Respectfully submitted,

MICHAEL J. FAULKS ET AL.

By 

Denise L. Stoker  
Registration No.: 47,111  
Attorney for Applicant(s)

**CERTIFICATE OF TRANSMISSION**

I, Barbara D. Miller, hereby certify that on **January 9, 2007** this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

Typed or printed name of person signing this certificate:

Barbara D. Miller

Signature:

